

EXHIBIT "A"
STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE MATTER OF APPLICATION
FOR BENEFICIAL WATER USE
PERMIT NO. 2591-s41S, BY
BILLY OR ROBERTA BELDENS

FILMED
APR 6 1980

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

The Proposed Findings of Fact, Conclusions of Law, and Order in this matter, entered on April 1, 1975, by the Hearing Examiner, are hereby adopted as the Final Findings of Fact, Conclusions of Law, and the Final Order.

ORDER

The Applicant's provisional permit is granted subject to:

1. Installation of a drainage device of at least 12-inch diameter, bottom center of both reservoirs,
2. All prior existing water rights in the source of supply, and
3. This permit is limited to a total of 220.6 acre-feet per year.

Done this 28th day of April 1975.

Orin Ferris

Administrator, Water Resources Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

CASE # 2591

BEFORE THE DEPARTMENT
OF
NATURAL RESOURCES AND CONSERVATION

IN THE MATTER OF THE APPLICATION
FOR BENEFICIAL WATER USE PERMIT
NO. 2591-s41S, BILLY OR ROBERTA
BELDENS

PROPOSAL FOR DECISION

Pursuant to the Montana Water Use and Administrative Procedures Acts, after due notice a hearing was held on December 10, 1974, at Lewistown, Montana, for the purpose of hearing objections to the above-named Application. The Applicant, Billy Beldens, appeared at the hearing and presented testimony. He was not represented by counsel. Mr. Bradley Parrish, Esq., of Lewistown, Montana, appeared for the objector, The Three Bar Ranch, Inc.

PROPOSED FINDINGS OF FACT

1. On June 17, 1974, the Applicant submitted an Application for Beneficial Water Use Permit to the Department seeking to appropriate 2.22 cubic feet per second of water and not to exceed 492 acre-feet per annum from Big Dry Creek, a tributary to Ross Fork Creek, in Fergus County, Montana. The water is to be impounded in two 6.5 acre-foot reservoirs on Big Dry Creek. The first dam will be located at a point in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 12 N., Range 16 E., M.P.M. The second dam, also 6.5 acre-foot capacity, is located in the same section, 300 yards downstream. The water is to be used for fish and stockwatering from January 1 to December 31, inclusive, of each year, and for irrigation on a total of 112 acres, more or less, in said Section 21 from March 1 to October 15, inclusive, of each year.

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2. On October 22, 1974, Bradley B. Parish filed an objection to the application on behalf of his client, Three Bar Ranch, Inc. The objection was based on the grounds that it would have adverse affects on prior existing water rights and no unappropriated water available to satisfy applicant's appropriation.

3. The objector, Three Bar Ranch, Inc has water rights of record from the source of Ross Fork Creek. These water rights are appurtenant to the Johnston Place. Big Dry Creek is a tributary to Ross Fork Creek upstream from the Johnston place. Big Dry is an intermittent stream, not a major source of water to Ross Fork Creek.

4. The Applicant testified that he did not think that his proposed diversion would interfere with the water rights on the Johnston place.

5. Mr. Rich Watson, Water Rights Analyst for the Department, testified that he had examined Big Dry Creek that morning. He said that Big Dry Creek went dry before its confluence with Ross Fork Creek. He did not think that Big Dry Creek was a major source of the water which the objectors divert from Ross Fork Creek.

6. After the hearing, the Department Soil Science staff calculated the quantity of water required to produce a crop on the 112 acres contemplated by the Applicant to be 220.6 acre-feet. Copies of these calculations were served on all parties to the hearing on March 17, 1975. All parties were given 10 days to except to the calculations. No exceptions were received within the 10-day limit.

PROPOSED CONCLUSIONS OF LAW

1. The evidence tended to indicate that approval of this application would not adversely affect the objector's prior existing water rights.

PROPOSED ORDER

The Applicant's permit be granted subject to:


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1. Installation of a drainage device of at least 12-inch diameter, bottom center of both reservoirs; and
2. All prior existing water rights.
3. The permit be limited to 220.6 acre-feet per annum.

NOTICE: This is a Proposed Order and will become final when accepted by the Administrator, Division of Water Resources, Department of Natural Resources and Conservation, pursuant to Section 82-4212, R.C.M. 1947, and Rule MAC 1-1.6(2) P6190, written exceptions to the Proposed Order shall be filed with the Administrator within ten (10) days of service of this Proposed Order upon the parties herein. Upon receipt of any written exceptions, opportunity will be afforded to file briefs and make oral argument before the Administrator.

DATED this 1 day of April, 1975.



JAMES LEWIS
HEARING EXAMINER